



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BM00

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 54

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of availability of a fishery management plan amendment; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 54 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) (Amendment 54) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 54 would revise Gulf greater amberjack sector allocations and catch limits. The purposes of Amendment 54 are to end overfishing of Gulf greater amberjack and to update

catch limits to be consistent with the best scientific information available.

DATES: Written comments on Amendment 54 must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments on Amendment 54 identified by "NOAA-NMFS-2023-0007" by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *<https://www.regulations.gov>* and enter "NOAA-NMFS-2023-0007", in the Search box. Click the "Comment" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit all written comments to Kelli O'Donnell, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name,

address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 54, which includes an environment assessment, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-54-modifications-greater-amberjack-catch-limits-sector-allocation-and-rebuilding>.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, telephone: 727-824-5305, or email: Kelli.ODonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the *Federal Register* notifying the public that the

FMP or amendment is available for review and comment.

The FMP being revised by Amendment 54 was prepared by the Council and Amendment 54, if approved, would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

All weights in this notice are in round weight.

Background

Under the FMP, the Council manages fishing for Gulf greater amberjack in Federal waters from the Texas/Mexico border to the Councils' jurisdictional boundary west of the Dry Tortugas, Florida. The Gulf greater amberjack stock annual catch limit (ACL) is set equal to the acceptable biological catch (ABC), and is allocated 27 percent to the commercial and 73 percent to the recreational sector.

Greater amberjack has been under a rebuilding plan since 2003. This rebuilding plan was implemented with Secretarial Amendment 2 and was expected to rebuild the stock by 2010 (68 FR 39898, July 3, 2003). In 2006, Southeast Data Assessment and Review (SEDAR) 9 assessment showed that the greater amberjack stock was not recovering as previously projected. The stock continued to be overfished and was experiencing

overfishing. The Council developed Amendment 30A to end overfishing and rebuild the stock by 2010, consistent with the time frame of the original rebuilding plan. In 2010, the SEDAR 9 Update was completed and indicated that the stock remained overfished and was continuing to experience overfishing. In response, the Council developed Amendment 35 to the FMP (77 FR 67574, December 13, 2012). The management measures implemented in Amendment 35 were expected to end overfishing; however, it could not be determined if the stock would meet its rebuilding schedule until a new benchmark assessment was completed. In 2014, the SEDAR 33 benchmark stock assessment was completed and showed that greater amberjack remained overfished, was experiencing overfishing as of 2012, and did not meet the rebuilding timeline established in Secretarial Amendment 2. In 2015, the Council developed a framework action that further reduced the sector ACLs and ACTs in an effort to end overfishing and rebuild the stock by the end of 2019 (80 FR 75432, December 2, 2015). In 2016, the SEDAR 33 Update assessment was completed and showed that greater amberjack was still overfished and undergoing overfishing as of 2015 and

the stock would not be rebuilt by 2019 as previously projected. In 2017, NMFS notified that Council that the stock was not making adequate progress towards rebuilding and the Council developed a framework action to modify the rebuilding time and the catch levels. The framework action, which was implemented in 2018, reduced the sector ACLs and ACTs in an effort to end overfishing and rebuild the stock by 2027 (82 FR 61485, December 28, 2017). In 2020, SEDAR 70 was completed and indicated that the Gulf greater amberjack stock continued to be overfished and undergoing overfishing, but could rebuild by 2027 with reduced yields. NMFS notified that Council that the stock was not making adequate progress towards rebuilding in 2021 and the Council began work on Amendment 54 to revise the greater amberjack catch limits to end overfishing and meet the 2027 rebuilding timeline.

The current commercial and recreational allocation of the Gulf greater amberjack stock ACL (73 percent recreational; 27 percent commercial) is based on average landings from 1981-2004 (73 FR 38139, July 3, 2008). Recreational landings estimates during 1981-2004 were generated using the Marine Recreational

Fisheries Statistics Survey (MRFSS), the predecessor of the current Marine Recreational Information Program (MRIP). The current overfishing limit (OFL) and ABC are 2,167,000 lb (982,935 kg) and 1,794,000 lb (813,745 kg), respectively. These catch limits are based on the results of the SEDAR 33 Update stock assessment, which included recreational landings estimates generated using the MRIP Coastal Household Survey (CHTS). MRIP replaced CHTS with the Fishing Effort Survey (FES) in 2018. As explained in Amendment 54, total recreational fishing effort estimates generated from MRIP-FES are generally higher than both the MRFSS and MRIP-CHTS estimates because MRIP-FES is designed to more accurately measure fishing effort. Had MRIP-FES data been available when the current Gulf greater amberjack OFL and ABC were established, the OFL would have been 3,480,000 lb (1,578,501 kg) and the ABC would have been 2,930,000 (1,329,026 kg).

The current commercial and recreational sector ACLs are 484,380 lb (219,711 kg) and 1,309,620 lb (594,034 kg), respectively. The current commercial and recreational ACTs are 421,411 lb (191,149 kg) and 1,086,985 lb (493,048 kg), respectively. These ACLs and ACTs were implemented through a framework action

to the FMP in 2018 (82 FR 61485, December 28, 2017) and are based in part on MRIP-CHTS data. To establish the ACTs the Council used its ACL/ACT Control Rule, which looked at multiple factors for fishing years 2013 to 2016 to determine the appropriate buffer between the ACLs and ACTs. The current commercial ACT buffer is 13 percent below the commercial ACL. The current recreational ACT buffer is 17 percent below the recreational ACL.

The SEDAR 70 assessment included updated recreational landings estimates based on MRIP-FES. In January 2021, the Council's SSC reviewed SEDAR 70 and recommended new catch levels that would end overfishing of Gulf greater amberjack under the current allocation, on the current rebuilding timeline, and allow harvest to increase over time. However, because these catch recommendations assumed status quo sector allocation, the Council requested that the SEFSC provide alternative catch level projections based on sector allocation alternatives that used MRIP-FES data and several different time series: the same time series used in Amendment 30A (1981-2004); a time series that begins when commercial greater amberjack landings were identified by species

and ends prior to the implementation of the current sector allocations, sector catch limits, and AMS (1993-2007); and a time series that begins when commercial greater amberjack landings were identified by species and ends with the most recent data available at the time the alternatives were developed (1993-2019). All of the resulting catch limits represent a substantial reduction in the allowable harvest when compared to the current OFL and ABC.

Actions Contained in Amendment 54

For Gulf greater amberjack, Amendment 54 would revise the OFL, ABC, sector allocations, and sector ACLs and ACTs. As explained above, the current catch limits were derived in part using MRIP-CHTS data and the proposed catch limits were derived in part using MRIP-FES data.

OFL and ABC

As previously explained, the current OFL and ABC for Gulf greater amberjack of 2,167,000 lb (982,935 kg) and 1,794,000 lb (813,745 kg), respectively. The catch levels recommended by the SSC would increase the allowable harvest each year through the end of the rebuilding plan in 2027. However, the Council determined that because the greater amberjack stock

has not rebuilt as expected under the current and previous rebuilding plans a more cautious approach is necessary. Therefore, Amendment 54 would specify a constant catch OFL and ABC. The new OFL would be 2,033,000 lb (922,153 kg). The new ABC would be 505,000 lb (229,064 kg).

ACLs and Sector Allocations

The current sector allocation of the stock ACL (equal to the ABC) is 27 percent to the commercial sector and 73 percent to the recreational sector. The current ACLs for Gulf greater amberjack are 484,380 lb (219,711 kg) for the commercial sector and 1,309,620 lb (594,034 kg) for the recreational sector.

The Council considered several sector allocation alternatives: maintaining the current allocation percentages, and using the various time series reviewed by the SSC to adjust the allocation to reflect the most recent understanding of historical landings. The Council recognized that all of these alternatives are reasonably calculated to promote conservation of the greater amberjack stock because they would modify the allowable harvest consistent with the result of SEDAR 70 and the SSC's recommendations, which is expected to allow the stock

to rebuild by 2027. In considering the fairness and equity of the allocation alternatives, the Council recognized that maintaining the current percentages would disproportionately impact on the recreational sector given the transition to MRIP-FES and that maintaining the current time series updated with MRIP-FES data would disproportionately impact the commercial sector by failing to account for the fact that commercial landing of greater amberjack prior to 1993 may not have been properly identified. The Council decided to adjust the allocation using the 1993-2019 time series because this represents the longest time series during which commercial greater amberjack landings have been identified by species. Therefore, Amendment 54 would revise the Gulf greater amberjack sector allocation to 20 percent commercial and 80 percent recreational, and set the commercial ACL at 101,000 lb (45,813 kg) and the recreational ACL at 404,000 lb (183,251 kg).

ACTs

The current ACTs are 421,411 (191,149 kg) for the commercial sector (13 percent buffer) and 1,086,985 lb (493,048 kg) for the recreational sector (17 percent buffer). Amendment 54 would update the calculation for

determining the ACTs using the Council's ACL/ACT Control Rule for years 2016-2019. Under this control rule, the calculated ACT buffer commercial sector buffer is reduced to 7 percent and the buffer for the recreational sector remains at 17 percent. The proposed commercial ACT is 93,930 lb (42,606 kg) and the proposed recreational ACT is 335,320 lb (152,099 kg).

Proposed Rule for Amendment 54

A proposed rule to implement Amendment 54 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the proposed rule in the *Federal Register* for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 54 for Secretarial review, approval, and implementation. Comments on Amendment 54 must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments received during the respective comment periods, whether specifically directed to

Amendment 54 or the proposed rule will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 54. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: February 24, 2023.

Kelly Denit,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

[FR Doc. 2023-04219 Filed: 3/1/2023 8:45 am; Publication Date: 3/2/2023]